

Appl. No. 10/001,352

Reply to Office Action of November 18, 2003

REMARKS

This Response is to the Final Office Action dated November 18, 2003. Claims 1 to 21 are currently pending. Claims 1 and 10 are being amended herein. No new matter has been introduced by way of any of the amendments.

In the Office Action, Claims 1 to 21 were rejected under 35 U.S.C. § 103(a) as being obvious in view of U.S. Patent No. 3,743,084 to Douglas ("*Douglas*") and U.S. Patent No. 1,984,351 to Johnson ("*Johnson*").

In response to the Office Action, Applicant has removed the "can be" language from independent Claims 1 and 10 to positively state structural limitations that are not believed to be taught by the combination of *Douglas* and *Johnson*.

Claim 1 now states that insert sections are folded over against one another. The compartments are positively stated to face outwardly from the sections. Further, the claim is clarified to specify that the insert is sized with respect to the housing and positioned in the housing so that multiple compartments impart multiple discrete forces on inner surfaces of the housing. The combination of *Douglas* and *Johnson* does not teach or suggest Claim 1.

Claim 10 additionally states that the compartments are constructed of a resilient material and are adapted to hold shape after products are removed therefrom. The compartments are sized with respect to the housing to create a friction fit even when products are removed from same. Claim 10 also includes a number of grammatical changes that disclaim no subject matter over *Douglas* and *Johnson*. Claim 10, like Claim 1, is distinguished over the combination of *Douglas* and *Johnson*.

As discussed previously, the inserts 40 and 75 of *Douglas* fold together so that the product is sandwiched between two outer layers. *Douglas* discloses the provision of linking panels 42 and 76. *Douglas* also discusses in connection with linking panel 42 that it is desirable not to put tension on the product compartments (column 4, line 37). The linking panel 42 is therefore provided as a spacer, which is at least equal to the height of the commodity compartments, to shield the compartments and products therein from mechanical stress. In *Douglas* it is desirable not to place stress on the product carrying compartments. *Douglas* does not disclose sizing the housing relative to the insert to produce frictional engagement.

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Johnson does not cure the deficiencies of *Douglas* with respect to Claims 1 and 10 as presently presented. *Johnson* does not disclose outwardly facing compartments. The reference does not disclose such compartments causing multiple points of force as called for in Claim 1. It does not disclose compartments that impact a force even after products are removed from within same as called for by Claims 1 and 10. *Johnson* has no structure analogous to the compartments of the present invention. Applicant therefore respectfully submits that Claims 1 and 10 and Claims 2 and 9 and 11 to 17 that depend therefrom are patentably distinct over *Douglas* and *Johnson* and in condition for allowance.

Claim 18 was not specifically addressed in the Final Office Action. It is a method claim and should not be held to the same structural standards as Claims 1 and 10. Moreover, *Douglas* and *Johnson* do not alone or in combination teach or suggest the steps of the method. For instance, they do not show that an outwardly extending portion of the insert that has previously housed a product and at least contributed to the insert being biased against housing walls continues to provide such contribution to the biasing once reinserted into the housing after a product is removed from the portion. While *Johnson* may suggest a press-fit, it does not suggest maintaining the press-fit with a compartment that just lost its product. Applicant respectfully submits that Claim 18 is functionally different from *Douglas* and *Johnson* because those references do not teach at least the steps of: (i) using product compartments to create a press-fit and (ii) structuring the compartment to continue to produce the press-fit even after products have been removed from same. Accordingly, Claim 18 and Claims 19 to 21 that depend therefrom are each allowable at this time.

For the foregoing reasons, Applicant respectfully submits that the above-identified patent application is now in a condition for allowance and earnestly solicits reconsideration of same.

Respectfully submitted,
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